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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/832,737	04/11/2001	Karl Forster	38394.0100	3464

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EXAMINER

TO, BAOQUOC N

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 10/27/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/832,737

Applicant(s)

FORSTER, KARL

Examiner

Baoquoc N To

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 9-27 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) 8 and 28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-27 and 29-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- ☐ Interview Summary (PTO-413) Paper No(s). ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other:

DETAILED ACTION

1. 1-7, 9-27 and 29-32 are pending in this application and claims 8 and 28 are cancelled on amendment filed 07/30/03.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 2 recites the limitation "wherein the archive comprises at least one file collection having the archive file" in page 2 of the instant amendment. It is unclear which archive the applicant refers to, examiner suggests replacing "the archive" with "the generated archive".

Claim 6 recites the limitation "the archive further comprises a folder" in page 2 of the instant amendment. It is unclear which archive the applicant refers to, examiner suggests replacing "the archive" with "the generated archive".

Response to Arguments

3. Applicant's arguments with respect to claims 1, 13 and 21 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 11-7, 9-27 and 29-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Woodhill et al. (US. Patent No. 5,649,196).

Regarding on claims 1, 13 and 21, Woodhill teaches a computer, a method for protecting a target file located at a target location, comprising the step of:

Generating an archive having an archive file (shadow file) (col. 16, lines 1-7);

Automatically updating (can be set to execute periodically on a user-defined schedule) (col. 5, lines 9-11) the target file (file database 25) (col. 3, lines 37-38) to match the archive file (shadow file) (col. 16, lines 1-7);

Periodically (can be set to execute periodically on a user-defined schedule) (col. 5, lines 9-11) comparing (comparing information of file block) (col. 6, lines 25-28) the target file (col. 3, lines 37-38) to the archive file (shadow file) (col. 6, lines 1-7), wherein the comparison comprises comparing one of the contents, size, and data/time of the target file to the corresponding archive file (comparing the information in the file's file block with the information stored in the file's Backup Queue Records 75. If any values changed , program control continues with step 112 where File status field 82 is set to "MODIFIED" and the fields in the Backup Queue Record 75 are updated from the file's

file block information" (col. 6, lines 26-32) (the values changes are file size, data, creation date and time, modify data and time, access date and time and file attributes) (col. 5, lines 54-59); and

Replace (updated means replace), as necessary, the target file according to the comparison such that the target file is identical to the archive file, wherein the replacing occurs when the comparison indicates that the target file is not identical to the archive file (if any values changed, program control continues with step 112 where file status field 82 is set to "MODIFIED" and the fields in the back Queue record 75 are updated from the file's file block", col. 6, lines 25-32).

Regarding on claims 2, 14, and 22, Woodhill teaches the archive (shadow) (col. 16, lines 1-7) comprises at least one file collection (backup queue record) having the archive file (backup calendar file) (col. 3, lines 26-26).

Regarding on claims 3, 15, and 23, Woodhill teaches the file collection comprises a current portion (col. 3, lines 32-35) and a revision portion (changed portion) (col. 9, lines 24-28).

Regarding on claims 4, 16, and 24, Woodhill teaches the revisions portion comprises at least one sub-division (directory), wherein each sub-division represents a different revision of the archive file (col. 5, lines 54-59).

Regarding on claims 5 and 25, teaches the step of republishing (restore) the target file at the target location using a selected revision (col. 18, lines 40-45).

Regarding on claims 6, 17 and 26, Woodhill teaches the archive further comprises a folder (exe is one of the folder backup directory) (col. 5, lines 42-45).

Regarding on claims 7 and 27, Woodhill teaches the target file has a first set of associated file statistic and the archive file has a second set of associated file statistics (file name, size or date/time), and wherein the step of periodically comparing comprises comparing the first set of associated file statistics to the second set of associated file statistic (col. 6, lines 25-32).

Regarding on claims 9, 18, and 29, Woodhill teaches the archive file (shadow file) (col. 16, lines 1-7) comprises a web site file (file is being backup in the wide area network) (col. 3, lines 12-14).

Regarding on claims 10 and 19, Woodhill teaches updating (updated) the archive file of the archive (col. 16, lines 1-7);

Updating an update queue (setting the backup queue records to new), wherein the update queue stores update information relating to the target file according to the update information in the update queue (col. 7, lines 9-39).

Regarding on claims 11 and 31, Woodhill teaches the step of updating (updated) the target file to match the archive file according to the update information in the update queue (col. 16, lines 1-15).

Regarding on claims 12 and 32, Woodhill teaches moving the target file from the target location to quarantine area if the step of comparing indicate that the target file differs from the archive file (col. 12, lines 45-53); and

Copying the archive file from the archive to target file at the target location to synchronize the target location with the archive (col. 12, lines 45-53).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Van Hoff et al. US. Patent No. 5,919,247 Patent date: 06/06/1999

Van Hoff discloses the system of updating by comparing the file size of the new content and the frequency which this file has been updated in the past. In addition that allows the updating system may be generated automatically by the tuner process 152 by the tuner. This is a 103 (a) reference that can be applied.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 2172

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Baoquoc N. To whose telephone number is (703) 305-1949 or via e-mail BaoquocN.To@uspto.gov. The examiner can normally be reached on Monday-Friday: 8:00 AM – 4:30 PM, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Y. Vu can be reached at (703) 305-4393.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231.

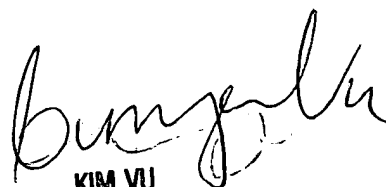
The fax numbers for the organization where this application or proceeding is assigned are as follow:

- (703) 746-7238 [After Final Communication]}
- (703) 746-7239 [Official Communication]
- (703) 746-7240 [Non-Official Communication]

Hand-delivered responses should be brought to:

Crystal Park II
2121 Crystal Drive
Arlington, VA 22202
Fourth Floor (Receptionist).

Baoquoc N. To
Oct 10, 2003


KIM VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2103